IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16506 of 2004

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Between:

A.P. Dairy Development Co-op Federation Ltd.,

Lalapet, Hyderabad rep by Managing Director

..... PETITIONER

AND

-

1 The Government of A.P., rep by Secretary (Revenue)

Secretariat, Hyderabad
2 The Special Officer & Competent Authority, Urban Land

Ceiling, Hyderabad
3 The Commissioner of Land Reforms & Urban Land

Ceiling, Hyderabad
4 Bayana Yellashwara Rao S/o Suryanarayana Rao
R/o 10-99/B, New Mirjalguda, Malkajigiri, Ranga Reddy

District
5 Bayana Saroja D/o Suryanarayana Rao
R/o 10-99/B, New Mirjalguda, Malkajigiri, Ranga Reddy

District
6 Bayana Nageswara Rao S/o SUryanarayana Rao
R/o 10-99/B, New Mirjalguda, Malkajigiri, Ranga Reddy

District
7 Bayana Atchayamma D/o Suryanarayana Rao
R/o 10-99/B, New Mirjalguda, Malkajigiri, Ranga Reddy

District
8 Bayana Lakshmi Narayana S/o Suryanarayana Rao
R/o 10-99/B, New Mirjalguda, Malkajigiri, Ranga Reddy

District
9 Jagupalli Srinivasa Rao R/o 10-99/B, New Mirjalguda,

Malkajigiri, Ranga Reddy District
10 V. Indira Kanaka Durgamba R/o 10-99/B, New

Mirjalguda, Malkajigiri, Ranga Reddy District
11 Bayana Venkayamma W/o Suryanarayana Rao
R/o 10-99/B, New Mirjalguda, Malkajigiri, Ranga Reddy

District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings No. F1/19-15/76 dt8-6-2004 passed by the 2nd respondent as illegal and arbitrary and consequently set a side the same.

Counsel for the Petitioner: MR.N.RAJESWAR RAO

Counsel for Respondents 1 to 3: GP FOR REVENUE

Counsel for Respondents 4 to 11: --

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue for respondents 1 to 3. Both have no objection for disposal of the writ petition at the admission stage.

On the death of B. Suryanarayana, his wife B. Venkayamma succeeded to the property and filed declaration in Form-I under Section 6(1) of the Urban Land (Ceiling & Regulation) Act, 1976 (for short 'the Act') in C.C.No.4945/1976 declaring the vacant land in S.Nos.215 & 216 of Malkajgiri Village to an extent of 11275.38 Sq. Yards in Hyderabad Urban Agglomeration. After preliminary enquiry an extent of 9427.64 Sq. Mts was computed to the holding of the declarant and after allowing to retain an extent of 1000.00 Sq. Mts of land under Section 4(1)(b) of the Act, a draft statement under Section 8(1) and 8(3) of the Act was issued on 27-4-1977 declaring

the declarant as surplus land holder to an extent of 8427.64 Sq. Mts. Thereafter the declarant filed an application for exemption under Section 20 of the Act stating that she has executed agreements of sale to sell plots to certain Government employees and received advance towards sale consideration. The Government vide G.O.Ms.No.1012 Revenue (UC-II) Dept. dated 6-8-1977 granted exemption in respect of five plots covering an extent of 1684.50 Sq. Mts. and after excluding the area exempted an extent of 6743.14 Sq. Mts has been determined surplus and final statement under Section 9 of the Act was issued on 26-4-1979. Excess possession of the land was taken over. Respondents 4 to 11 who are the L.Rs of B. Suryanarayana, filed an appeal under Section 33 of the Act before the Commissioner of Land Revenue & Urban Land Ceiling, Hyderabad questioning the final statement issued under Section 9 of the Act and the same was dismissed by the appellate authority on 20-3-1982. Questioning the same, they filed W.P.No.4878 of 1982. This court set aside the order passed by the appellate authority on 20-8-1987 and directed the appellate authority to dispose of the appeal afresh after giving notice and opportunity to the petitioners. Accordingly, the appellate authority has taken up the case for fresh enquiry and after giving notice and opportunity to the petitioners dismissed the Appeal. Questioning the same, the legal heirs of the declarant filed W.P.No.6373 of 1992 in which status quo was ordered. Ultimately, the said writ petition was allowed on 29-12-1999. Aggrieved by the same, the matter was carried to the Supreme Court by the third respondent by filing S.L.P. (Civil) No.7736/2000 and the same was also dismissed on 9-5-2000. On dismissal of the same, the Commissioner took up the appeal once again and by order dated 28-2-2004 set aside the impugned final statement under Section 9 of the Act issued by the Competent Authority on 26-4-1979 and all subsequent proceedings pursuant to it and directed the Competent Authority to revise the final statement. Consequent to the directions issued by the appellate authority, the Competent Authority revised the final statement under Section 8(4) of the Act, which was issued earlier on 26-4-1979 and declared that the declarant along with her four major sons are the surplus land holder only to an extent of 2743.14 Sq. Mts. The legality and validity of the said order is challenged in this writ petition stating that the land vested with the Government was in turn allotted to A.P. Dairy Development Cooperation Federation Limited (APDDCFL) by issuing G.O.Ms.No.5013 dated 19-12-1980 and the possession of the excess land to an extent of 6743.14 Sq. Mts has been delivered to the APDDCFL on 12-2-1981 and since the date of allotment of the land by the

Government it is in possession of the property by fencing the same. It is not in dispute that respondents 4 to 11 herein filed writ petition No.6373 of 1992 to which the petitioner herein was a party and it was allowed on
29-12-1999 remanding the matter to the appellate authority and the appellate authority had allowed the appeal and declared that respondents 4 to 11 herein are only surplus land owners to an extent of 2743.14 Sq. Mts. in his proceedings dated 28-2-2004.

The petitioner has not questioned the order passed by the appellate authority since the order indicates that the appellate authority heard the parties and after examining the issue disposed of the said appeal. Pursuant to directions issued by the appellate authority, the Competent authority revised final statement under Section 9 of the Act, which is now challenged by the petitioner stating that he has not been given an opportunity by the Competent Authority before passing the said order.

Once the appellate authority allowed the appeal to which the petitioner was also a party and the petitioner who was claiming rights through the Government did not challenge the said order wherein the appellate authority not only set aside the order passed under Section 8(4) of the Act and the final statement under Section 9 of the Act issued earlier but all subsequent proceedings pursuant to the said order with a direction to revise the final statement under Section 9 of the Act, he cannot have a right that he should be heard by the competent authority while revising the final statement, and also cannot derive any right in the property to maintain possession over the same. In view of the same, the present writ petition filed by the petitioner contending that the order passed by the competent authority is in violation of the principles of natural justice, cannot be accepted.

Accordingly, the Writ Petition is dismissed at the admission stage.

A. Gopal Reddy, J.

15th September, 2004.

Js.

ASSISTANT REGISTRAR

To

1 The Government of A.P., rep by Secretary (Revenue)

Secretariat, Hyderabad
2 The Special Officer & Competent Authority, Urban Land

Ceiling, Hyderabad
3 The Commissioner of Land Reforms & Urban Land

Ceiling, Hyderabad
4 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

5 2 CD copies.